



# Senate

General Assembly

January Session, 2003

**File No. 292**

Senate Bill No. 1021

*Senate, April 10, 2003*

The Committee on Labor and Public Employees reported through SEN. PRAGUE of the 19th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

## **AN ACT AUTHORIZING APPEALS OF MEDICAL EXAMINING BOARD DECISIONS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (d) of section 5-169 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective*  
3 *October 1, 2003*):

4 (d) [No reconsideration of a] The board shall not make a decision  
5 concerning a member's eligibility for a disability retirement allowance  
6 or the discontinuance of such allowance [shall be made by the board  
7 unless a member, upon application to the board for a redetermination,  
8 discloses additional facts concerning his condition at the date of  
9 termination of employment] without affording the member an  
10 opportunity for hearing. The procedures set forth in chapter 54 for  
11 contested cases, including procedures for reconsideration and appeal  
12 of contested cases, shall be applicable to any such decision by the  
13 board.

This act shall take effect as follows:
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Section 1	<i>October 1, 2003</i>
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**LAB**      *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

### **OFA Fiscal Note**

#### **State Impact:**

<b>Agency Affected</b>	<b>Fund-Type</b>	<b>FY 04 \$</b>	<b>FY 05 \$</b>
Comptroller	GF - None	None	None
Attorney General	GF - None	None	None
Judicial Dept.	GF - None	None	None

Note: GF=General Fund

**Municipal Impact:** None

#### **Explanation**

The bill requires the Medical Examining Board (MEB) to hold a hearing before making a decision on a state employee's disability retirement eligibility. Currently, the MEB meets monthly to decide on the disability retirement eligibility of state employees. According to the Employee Benefits Division of the State Comptroller's the majority of decisions go forward based on the information contained in the record. However, hearings are held when requested by a state employee. It is anticipated that the hearing requirement in the bill will create a backlog in the disability application process.

In FY 02 the MEB considered 311 disability retirement applications: of this number 209 were approved.

It is anticipated that the Attorney General's Office could handle administrative appeals under the bill without the need for additional appropriations. The potential caseload increase for the Superior Court under the bill could also be handled within budgeted resources.

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**OLR Bill Analysis**

SB 1021

***AN ACT AUTHORIZING APPEALS OF MEDICAL EXAMINING BOARD DECISIONS*****SUMMARY:**

This bill requires the Medical Examining Board (MEB) to provide an opportunity for a hearing to any state employee applying for disability retirement or for continuation of such retirement benefits before it makes its decision. The bill also allows applicants to appeal such decisions under the Uniform Administrative Procedures Act (UAPA) and specifies that the procedures for “contested cases” apply.

Current law does not require a hearing and without a hearing, MEB decisions cannot be appealed. But the law requires the board to reconsider a decision if (1) pertinent information not originally considered becomes available and (2) the employee requests reconsideration.

EFFECTIVE DATE: October 1, 2003

**BACKGROUND*****UAPA and Contested Cases***

A contested case means an agency proceeding where a person’s legal rights, duties, or privileges must be determined pursuant to the statutes. UAPA regulates how agencies conduct contested cases including (1) determining who is party to the hearing, (2) setting notice requirements for those interested, (3) guiding the conduct and record of the hearing, (4) reaching the final decision, and (5) setting rules for appeals (CGS Chapter 54).

***MEB and Appeals***

The MEB consists of seven doctors, all state employees, appointed by the governor to rule on disability retirement cases. MEB has the sole authority to decide whether an applicant’s medical status qualifies him

for a disability retirement or continued disability retirement benefits. Since the law does not require the MEB to hold hearings (and in practice it does not), the courts have ruled its decisions do not fall under UAPA provisions for appeals of contested cases. Under the UAPA, only an agency's final decision can be appealed. Final decisions are defined as those resulting from a hearing.

## **COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Report

Yea 14      Nay 0